



CBSA 2020 Legislative Session Report

SUMMARY

CBSA leads Policy + Advocacy efforts to support a collaborative, pro-innovation environment for life sciences in Colorado. We work to advance state and federal policies that support the companies in our ecosystem and the patients they serve.

The Second Regular Session of the 72nd General Assembly was one of a kind. It began like most other sessions, but it was dramatically interrupted by the global health crisis and severe economic downturn.

The first two months of the session included big democratic priorities like paid family leave, a public health insurance option, drug pricing, and data privacy. During that time, CBSA worked tirelessly to champion legislation that would support Colorado's innovation ecosystem and oppose proposals that would make it harder for our life sciences community to advance new technologies and treatments for patients. When the COVID-19 pandemic hit Colorado in mid-March, however, pending legislation was put on hold. The General Assembly took a temporary adjournment and sent an interrogatory to the Colorado Supreme Court to determine if the legislature could reconvene at a later date and finish the remaining days in the session. The court ruled that during a declared public health emergency, the days do not need to be consecutive, which left over 50 days remaining in the legislative session.

The General Assembly reconvened on May 26, 2020 for what would end up being the last three weeks of the legislative session. By this time, many Coloradans were struggling as a result of the health and economic crisis, and the state faced a \$3.3 billion budget shortfall. Legislative priorities shifted significantly, and an overwhelming majority of bills that were in progress in March were ultimately set aside for the year. We learned that many of the bills that CBSA opposed earlier in the session would not advance.

New priorities emerged at the General Assembly including paid sick leave, unemployment insurance, worker protections, and price gouging legislation. Lawmakers also considered new legislative proposals that could generate revenue that the state desperately needed. These new priorities moved at lightning speed and demanded aggressive advocacy efforts from the CBSA team to protect incentives for innovation and a business-friendly environment for our ecosystem.

THE STATE BUDGET

At the beginning of the 2020 legislative session, the state budget and economy were stable, with the December forecast projecting \$832.5 million in new money for lawmakers to spend on new or existing programs. By March, however, the forecast was revised downward as a result of the projected impact of COVID-19. At that time, the General Assembly's Joint Budget Committee had already balanced about 98 percent of next year's budget, but the new forecast forced the Committee to start over. They would have to find billions of dollars in cuts in order to balance the budget for the next fiscal year.

In May, state economists presented an updated revenue forecast that showed a budget shortfall of \$3.3 billion for fiscal year 2020-2021. While Congress had provided some relief to states through the federal CARES Act, there was little flexibility about how those dollars could be used, and most of it could not be used to backfill the state budget. As a result, the Joint Budget Committee was forced to cut 25% in next year's budget and make extremely difficult decisions about funding across all departments.

Protecting the Advanced Industries Accelerator Grant Program During Budget Cuts

Beginning in early May, the Joint Budget Committee worked to balance the state budget and review recommendations from committee staff analysts and the Governor's Office of State Planning and Budgeting. The Committee worked tirelessly and considered drastic cuts across all departments and programs in order to backfill the \$3.3 billion hole the state was facing.

Two recommendations put forward by Joint Budget Committee staff would have eliminated all funding for the Advanced Industries Accelerator Grant Program, which is a critical source of non-dilutive funding for Colorado life sciences companies and institutions. Since the program's inception in 2006, it has played a vital role in the growth and success of our life sciences ecosystem, providing over 450 life sciences-related grants and generating over \$972 million in follow-on capital and investments.

CBSA responded quickly to the threat of funding cuts. The team immediately engaged all members of the Joint Budget Committee to educate them about the value of the program, especially during an economic downturn, and urged them to maintain funding. CBSA also mobilized our life sciences community and encouraged members and leaders in our ecosystem to take action. Over the course of a three-week activation, over 280 emails were sent to members of the Joint Budget Committee about the impact of the Advanced Industries Accelerator Grant Program. Many companies shared powerful stories about how the grant dollars were used to secure additional investment and advance novel technologies for patients.

Ultimately, the Joint Budget Committee decided to maintain a significant amount of funding for the Advanced Industries Accelerator Grant Program. The decision to preserve the program during a period of severe budget cuts was a welcome recognition of the life-saving breakthroughs developed by our ecosystem and our members' aggressive response to COVID-19. It was an important victory for CBSA, our members, and our life sciences ecosystem.

CBSA appreciates the General Assembly's partnership in preserving critical funding that sustains the growth of our life sciences ecosystem. We are also grateful to our members and partners for their support and engagement to protect the Advanced Industries Accelerator Grant Program. We know your outreach and stories of innovation made a difference. A special thank you to our partners at the Office of Economic Development and International Trade (OEDIT) for their commitment and support of this successful program.

Canadian Prescription Drug Importation Program (SB19-005) Funding Removed

During their work to balance the budget for fiscal year 2020-21, the Joint Budget Committee voted to remove funding for the state to contract with a vendor for the completion of the Canadian drug importation program. The budget cut recommendation was made with the assumption that the priorities of CMS have changed due to the COVID-19 pandemic, and it will likely take longer than expected for CMS to review Colorado's application. If federal approval is received during this fiscal year, however, the state can submit a supplemental funding request to the Joint Budget Committee to receive the program funding.

2020 PRIORITY BILLS

HB20-1232, Equity in Access to Clinical Trials in Medicaid

CBSA Position	Bill Description
Support	House Bill 1232 was driven by the work of the General Assembly's Cancer Caucus. The bill will expand access to clinical trials for Medicaid enrollees by ensuring that routine costs associated with clinical trials are covered, including physician visits and lab tests. CBSA supported the bill as an important step that will reduce health disparities and improve access to high-quality, high-value care for all Coloradans. CBSA submitted written testimony in support of the bill for a hearing in the Senate State, Veterans and Military Affairs Committee.
Outcome	<u>House Bill 1232 passed.</u>

HB20-1346, Extend Innovative Industries Workforce Development Program

CBSA Position	Bill Description
Support	House Bill 1346 <u>would have extended the Innovative Industries Internship Program</u> for five years. The program began in 2015 and has been successful in incentivizing employers to find, hire, and train students and recent graduates by awarding matching grants of up to \$5,000 for internships in one of the eight innovative industries, including bioscience. Beginning last fall, CBSA worked closely with other innovative industries, partner organizations, and state policymakers to build support for extending the internship program. When the COVID-19 outbreak began to escalate, CBSA adapted quickly and collaborated with the lead bill sponsor to draft amendments that would create the best opportunity for the bill to advance. Unfortunately, the state continues to face an unprecedented economic downturn, and legislative leadership was forced to reprioritize and significantly reduce the bills moving forward.
Outcome	House Bill 1346 was postponed indefinitely in the House Business Affairs and Labor Committee. While we are disappointed that the internship program will not be extended this year, CBSA recognizes that the state legislature had to make incredibly challenging decisions this session, and many successful programs will sunset. CBSA will continue to cultivate a talent pipeline for our ecosystem and partner with state policymakers to champion workforce development initiatives for life sciences.

SB20-163, School Entry Immunization

CBSA Position	Bill Description
Support	Senate Bill 163 requires parents who want to opt their child out of getting vaccinated to get a signature from an immunization provider or watch an informational video produced by the Colorado Department of Public Health and Environment (CDPHE). CBSA supported the bill as an important public health measure that incorporates proven strategies to improve vaccination rates and decrease the risk of vaccine-preventable

	diseases. The bill does not change which vaccination exemptions are allowed. It merely requires parents who choose not to vaccinate their children to make the same effort to protect public health that vaccinating parents do. CBSA joined a coalition of supporters working to advance the legislation and submitted written testimony to the members of the House Health & Insurance Committee in advance of the bill's hearing.
Outcome	Senate Bill 163 passed.

HB20-1160, Drug Price Transparency Insurance Premium Reductions

CBSA Position	Bill Description
Oppose Unless Amended	As introduced, House Bill 1160 would have required health insurers, drug manufacturers, pharmacy benefit managers (PBMs), and nonprofit organizations to report information about the cost of prescription drugs to the Commissioner of Insurance. It also would have directed the Commissioner to analyze the information and submit a report about the effect of drug costs on insurance premiums. Prior to the bill's introduction, <u>CBSA conveyed our biggest concerns to the sponsors.</u> We worked closely with our industry partners and member companies to negotiate significant changes to the bill, including amendments in the House Health & Insurance Committee to strengthen confidentiality protections for reported information. CBSA reiterated our objections through testimony in the House Health & Insurance Committee and the House Finance Committee. While several favorable amendments were adopted, CBSA remained opposed to the bill when the session ended on June 15.
Outcome	House Bill 1160 died on the calendar in the House. We expect the bill to be introduced again next session.

HB20-1195, Consumer Digital Repair Bill of Rights

CBSA Position	Bill Description
Oppose Unless Amended	House Bill 1195 would have required a manufacturer of digital electronic equipment to provide the parts, tools, embedded software, and repair manuals so consumers and independent servicers would have the ability to repair their own technology. CBSA opposed the bill, advocating for an amendment to exempt medical technology manufacturers from the bill's requirements. We communicated our concerns that the bill would interfere with federal regulatory requirements for medical technology manufacturers, jeopardize patient safety, and create new cybersecurity risks. Leading up to the bill's committee hearing, CBSA worked closely with AdvaMed and our medical device members to reiterate our strong opposition.
Outcome	<u>House Bill 1195 was postponed indefinitely</u> in the House Business Affairs & Labor Committee. We expect the bill will be introduced again next session.

SB20-010, Repeal Ban on Local Government Regulation of Plastics

CBSA Position	Bill Description
Oppose Unless Amended	Senate Bill 10 would have repealed language that prohibits local governments from banning the use or sale of specific types of plastic materials or restricting or mandating packaging or labeling of any consumer products. CBSA shared our concerns with the bill sponsors that medical products, equipment, and supplies might be unintentionally included in local bans on single-use plastics. We repeatedly advocated for an amendment that would exempt medical products, but the lead bill sponsor was not willing to consider any exemptions. <u>CBSA testified in opposition</u> to the bill in the Senate Local Government Committee.
Outcome	Senate Bill 10 was postponed indefinitely.

HB20-1420, Adjust Tax Expenditures for School Education Fund

CBSA Position	Bill Description
Oppose	<p>Just days before the end of the session, Colorado state legislators introduced House Bill 1420, a controversial measure that would have changed the state tax code by eliminating or suspending certain tax deductions for Colorado businesses to generate revenue for K-12 schools. CBSA opposed the legislation, recognizing the devastating impact it could have on our companies and Colorado's innovation ecosystem. We were particularly concerned about a provision that would limit the net operation loss a company can use in one year to \$400K. The cap would have been hugely punitive for our community and would have discouraged life sciences companies from doing research and development in Colorado.</p> <p><u>CBSA worked closely with the broader business community and leaders in our ecosystem</u> to communicate our opposition to the bill. We testified in opposition in the Senate Finance Committee and weighed in repeatedly with legislators about how the NOL provision would impact our members and their employees. Ultimately, an amendment was adopted on the Senate floor that made significant changes to the bill, including removing the cap on NOL deductions. This outcome was an important victory for CBSA and our members.</p>
Outcome	House Bill 1420 passed (favorably amended).

SB20-107, Drug Production Costs Transparency Analysis Report

CBSA Position	Bill Description
Oppose	Senate Bill 107 would have directed the Department of Health Care Policy & Financing (HCPF) to collect, analyze, and report prescription drug costs for the 20 highest-cost drugs per course of therapy and the 20 highest-cost drugs based on total spending by each state department. CBSA opposed the bill because it would have created an administrative burden for drug manufacturers and would have done nothing to lower out-of-pocket costs for patients or improve patient access. We also objected to the specific data companies would be required to report under the bill, including information like R&D

	and manufacturing costs for a single drug, which would not be feasible. CBSA <u>testified in opposition to the bill</u> in the Senate Health & Human Services Committee and worked with our members and industry partners on amendments to improve protections for reported information.
Outcome	Senate Bill 107 was laid over until December 31, 2020, effectively killing the bill. We expect a version of the bill to be introduced next session.

SB20-119, Expand Canadian Prescription Drug Import Program

CBSA Position	Bill Description
Oppose	Senate Bill 119 would have expanded the Canadian drug importation program (created by SB19-005) to other countries besides Canada, if permitted by federal law. CBSA opposed the bill, <u>maintaining our concerns that importation schemes jeopardize patient safety</u> and do little to reduce out-of-pocket costs for consumers. CBSA testified in opposition to the bill in the Senate Health & Human Services Committee and sent letters of opposition to members of the House Health & Insurance Committee in advance of the bill's hearing.
Outcome	Senate Bill 119 was postponed indefinitely in the House Health & Insurance Committee.

2020 BILLS OF INTEREST

HB20-1413, Small Business Recovery Loan Program Premium Tax Credits

CBSA Position	Bill Description
Monitor	<p>House Bill 1413 was the outcome of Governor Polis' economic advisory council that was created to address the economic impacts of the health crisis. The bill establishes a small business recovery loan fund consisting of \$250 million of state and private dollars for first loss capital on loans to small businesses over the next two fiscal years, funded by the sale of insurance premium tax credits.</p> <p>Under the program, the state treasurer can invest up to \$30 million from the fund during the 2020-2021 fiscal year and up to \$30 million during 2021-2022 fiscal year, but the total cannot exceed \$50 million. Investments must be made in tranches of no more than \$10 million each and each tranche must be matched at a 4 to 1 ratio with money invested from other sources before its deployed. Once the money in a tranche is matched, it must be used to make loans of working capital to Colorado businesses with between 5 and 100 employees that meet eligibility criteria. The loans must be between \$30,000 and \$500,000, with a maturity of up to 5 years.</p> <p>CBSA solicited feedback from our members through the Policy Committee and decided to monitor the bill.</p>
Outcome	House Bill 1413 passed. CBSA will provide updates to our community as the program is launched about how to apply for a loan.

HB20-1414, Price Gouge Amid Disaster Deceptive Trade Practice

CBSA Position	Bill Description
Monitor	House Bill 1414 prohibits price gouging for a period of six months following a declared disaster made by the President or the Governor. The items subject to the legislation include building materials, consumer food items, emergency supplies, fuel, medical supplies, repair or reconstruction services, and transportation, freight, or storage services. Under the bill, a price will not be considered unreasonably excessive if the seller can prove that, due to the events that gave rise to the disaster declaration, the seller's price is directly attributable to the costs imposed by the supplier, or other direct costs of providing the good or service sold. CBSA solicited feedback from our members through the Policy Committee and decided to monitor the bill for any adverse or favorable amendments.
Outcome	House Bill 1414 passed.

SB20-205, Sick Leave for Employees

CBSA Position	Bill Description
No official position	Senate Bill 205 requires that all employers in Colorado provide paid sick leave to each employee. Under the bill, beginning January 1, 2020, all employers must provide one hour of paid sick leave for every 30 hours worked, up to a maximum of 48 hours per year. Employers that provide comparable paid leave to their employees and allow them to use that leave under the act are not required to provide additional paid sick leave. While there was strong opposition from the business community, the sponsors worked with public and private employers to make improvements to the bill. One favorable amendment that was adopted will delay implementation for employers with 15 or fewer employees until January 1, 2022. CBSA solicited feedback from our members, but we did not hear any opposition from our community (as most companies offer some type of comparable paid leave). We did not take a formal position on the bill.
Outcome	Senate Bill 205 passed.

SB20-212, Reimbursement for Telehealth Services

CBSA Position	Bill Description
Monitor	Senate Bill 212 aims to maintain the telehealth expansions that were made necessary by the COVID-19 pandemic for private insurers and Medicaid. The bill allows behavioral, mental, and physical telehealth for assessment, diagnosis, consultation, treatment, education, care management, self-management, or recommendations for a patient. It creates parity for in-person and telehealth visit billing, expands the allowed technology platforms, and allows patients to establish care with a provider via telehealth. CBSA monitored the bill as an important measure to expand patient access to care, but there was no direct impact on our members.
Outcome	Senate Bill 212 passed.

SB20-215, Health Insurance Affordability Enterprise

CBSA Position	Bill Description
Monitor	<p>Senate Bill 215 will create an enterprise to assess a fee on health insurance carriers and hospitals in order to fund the state's reinsurance program. The funds would also be used for other services, including additional subsidies for those on the individual market and subsidies for those left out of the Affordable Care Act through what is known as the family glitch.</p> <p>The bill faced strong opposition from health insurers and the broader business community. Opponents argued that the bill was more far-reaching than simply funding reinsurance and represented a significant tax increase on health insurance that would increase the premiums that employers pay for health coverage. Supporters of the bill maintained that the fee would replace the federal health insurance tax that is set to expire at the end of the year. The business community was able to secure several amendments, including scaling back the authority of a Health Insurance Affordability Board created through the bill, lowering the tax on insurers, and ensuring the funds cannot be used for the public option. CBSA solicited feedback from our members through the Policy Committee and decided to monitor the bill for any adverse or favorable amendments.</p>
Outcome	Senate Bill 215 passed.

SB20-222, Use CARES Act Money Small Business Grant Program

CBSA Position	Bill Description
No official position	<p>Senate Bill 222 creates a small business COVID-19 grant program financed by \$20 million from the federal money allocated to the state through the federal CARES Act. To be eligible for a grant, businesses must have fewer than 25 employees and have been affected by economic hardship caused by the pandemic. Preference will be given to small businesses that did not receive a Paycheck Protection Program loan or are majority owned by veterans, women, or minorities or located in a rural area. \$5 million will be earmarked for tourism.</p>
Outcome	Senate Bill 222 passed. While CBSA did not take a formal position on this legislation, we will provide updates to our community as the program is launched about how to apply for a loan.

CONCLUSION

During an unprecedented legislative session, the CBSA team succeeded in defeating and mitigating many harmful legislative proposals and protecting critical programs that support our life sciences ecosystem. We also worked effectively with our members and partners to advance legislation that will increase access to clinical trials and improve child vaccination rates.

CBSA is proud to represent Colorado's life sciences ecosystem at the State Capitol and advocate on behalf of our members, who dedicate their careers to improving and saving lives with health innovations, products, and services. We appreciate the support and engagement of our community, and we look forward to working with you to advance our priorities in 2021.